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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

-----x

3 UNITED STATES OF AMERICA,

4 v.

11 CR 576 (WHP)

5 JOSHUA MEREGILDO, MELVIN
6 COLON, EARL PIERCE, and
7 NOLBERT MIRANDA,

Defendants.

8 -----x

9 New York, N.Y.
10 December 4, 2012
11 10:18 a.m.

12 Before:

13 HON. WILLIAM H. PAULEY III,

14 District Judge

15 APPEARANCES

16 PREET BHARARA

United States Attorney for the
17 Southern District of New York

18 NOLA HELLER

ADAM FEE

SANTOSH ARAVIND

19 Assistant United States Attorneys

20 WINSTON LEE

21 YING STAFFORD

Attorneys for Defendant Meregildo

22 MITCHELL DINNERSTEIN

23 Attorneys for Defendant Colon

24 FLORIAN MIEDEL

AARON MYSLIWIEC

25 Attorneys for Defendant Pierce

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APPEARANCES (Continued)

GARY BECKER
Attorneys for Defendant Miranda

ALSO PRESENT:
Special Agent Patrick Collins, ATF
Paralegal Specialist Darci Brady

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(Trial resumed)

(In open court; jury not present)

THE COURT: All right. Good morning, everyone.

The jury commenced deliberations this morning at 9:35.

I received a letter application from Mr. Becker overnight requesting that the court supplement its instruction yesterday afternoon. Does anyone want to be heard with respect to it? After receiving it, Mr. Becker, I must say that my intention is to deny the application.

MR. BECKER: Your Honor --

THE COURT: I don't see that there's anything else that you can add to what's in your letter.

MR. BECKER: Just one or two sentences, maximum. I promise.

The jury note, as I said yesterday, was less than a model of clarity. We were all guilty of that frequently, but we are wordsmiths and we choose all our words very carefully, and the jury are laypeople, and it occurred to me after court yesterday that I think what the jury may really have been asking is: Wait a minute, if we find that somebody sold drugs on the streets of Courtlandt Avenue, is that enough to convict him of the conspiracy count? And that, of course, was what I argued in my summation -- namely, that it wasn't enough. And what the court told the jury yesterday was everything but that, and it seems to me, you know, it told the jury that there's no

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1 substantive charge, it told the jury that the distribution was
2 an object of the conspiracy, and it told the jury that the
3 court -- that the jury could consider distribution in
4 considering whether the conspiracy was proven, but it never
5 told the jury that distribution by itself is insufficient, and
6 to round out the charge and give the jury a full understanding
7 of the issue in response to their note, it seems to me a
8 one-sentence supplemental instruction is not only appropriate
9 but it's really critical to ensuring Mr. Miranda's right to a
10 fair trial, and so I would respectfully ask the court to
11 reconsider its preliminary view and to give that very short
12 supplemental instruction. There's no prejudice to the
13 government, it's an accurate statement of law, and we all want
14 a verdict that is a product of a fully informed, properly
15 instructed jury, and so for those reasons, I would respectfully
16 ask your Honor to reconsider and give a one-sentence
17 supplemental instruction.

18 THE COURT: Does the government want to be heard?

19 MS. HELLER: No, your Honor.

20 THE COURT: All right. Mr. Becker, I'm declining the
21 defendant Miranda's request.

22 Now yesterday, by mistake, the two notes were marked
23 as Court Exhibits 8 and 9. They should have been marked as 9
24 and 10, because there was an 8 that was marked the preceding
25 session. I'm physically changing the transcript to reflect the

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1 proper numbers for yesterday for those two court exhibits.

2 And the court received a note this morning, which
3 we'll mark as Court Exhibit 11. It reads as follows:

4 "We've reached a verdict." And it's signed by the
5 foreperson.

6 Mark it as Court Exhibit 11 and show it to counsel.

7 MR. BECKER: Your Honor, I just wanted the record to
8 be clear. Am I correct that the court's declination of my
9 letter request to supplement -- to give a supplemental
10 one-sentence jury charge was not influenced by the fact that
11 the jury has sent in a note that they have a verdict?

12 THE COURT: Not in any way. After receiving your
13 letter, I determined that I was going to deny the application
14 when we convened on the record.

15 MR. BECKER: Thank you.

16 THE COURT: All right. Let's bring in the jury.

17 THE CLERK: Come to order. Jury entering.

18 (Jury present)

19 THE COURT: Good morning, members of the jury.

20 THE JURORS: Good morning.

21 THE COURT: A short time ago I received a note from
22 you that we marked as Court Exhibit 11 informing me that you
23 have reached a verdict.

24 At this time I'd ask that my deputy retrieve the
25 verdict sheet from the foreperson for my review.

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(Pause)

THE COURT: Please return the verdict sheet to the foreperson.

Madam Foreperson, I'd ask that you stand.

Madam Foreperson, with respect to Count Three, conspiracy to murder members of the Melrose organization in aid of racketeering as charged against Earl Pierce, how does the jury find the defendant; not guilty or guilty?

THE FOREPERSON: Guilty.

THE COURT: With respect to Count Four, the murder of Jason Correa in aid of racketeering as charged against the defendant Earl Pierce, how does the jury find the defendant, not guilty or guilty?

THE FOREPERSON: Not guilty.

THE COURT: With respect to Count Five, conspiracy to murder Carrel Ogarro in aid of racketeering as charged against Joshua Meregildo, how does the jury find the defendant, not guilty or guilty?

THE FOREPERSON: Guilty.

THE COURT: With respect to Count Six, the murder of Carrel Ogarro in aid of racketeering as charged against Joshua Meregildo, how does the jury find the defendant, not guilty or guilty?

THE FOREPERSON: Guilty.

THE COURT: With respect to Count Seven, conspiracy to

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1 murder Delquan Alston in aid of racketeering as charged against
2 the defendant Melvin Colon, how does the jury find the
3 defendant, not guilty or guilty?

4 THE FOREPERSON: Guilty.

5 THE COURT: With respect to Count Eight, the murder of
6 Delquan Alston in aid of racketeering as charged against Melvin
7 Colon, how does the jury find the defendant, not guilty or
8 guilty?

9 THE FOREPERSON: Guilty.

10 THE COURT: With respect to Count Nine, the conspiracy
11 to murder members of the 321 organization in aid of
12 racketeering as charged against Joshua Meregildo and Earl
13 Pierce, how does the jury find with respect to Joshua
14 Meregildo, not guilty or guilty?

15 THE FOREPERSON: Not guilty.

16 THE COURT: With respect to the defendant Earl Pierce,
17 how does the jury find, not guilty or guilty?

18 THE FOREPERSON: Not guilty.

19 THE COURT: With respect to Count Ten, the assault and
20 attempted murder of Tarean Joseph in aid of racketeering as
21 charged against Joshua Meregildo and Earl Pierce, how does the
22 jury find with respect to the defendant Joshua Meregildo, not
23 guilty or guilty?

24 THE FOREPERSON: Not guilty.

25 THE COURT: With respect to the defendant Earl Pierce,

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1 how does the jury find?

2 THE FOREPERSON: Guilty.

3 THE COURT: With respect to question 10.1: Did the
4 government prove beyond a reasonable doubt that the defendant
5 Earl Pierce assaulted Tarean Joseph? How does the jury answer
6 that question, no or yes?

7 THE FOREPERSON: Yes.

8 THE COURT: And with respect to question 10.2: Did
9 the government prove beyond a reasonable doubt that the
10 defendant Earl Pierce attempted to murder Tarean Joseph? How
11 does the jury answer that question, no or yes?

12 THE FOREPERSON: Yes.

13 THE COURT: And did the jury leave its answers blank
14 with respect to the defendant Joshua Meregildo for
15 questions 10.1 and 10.2?

16 THE FOREPERSON: Yes, we did.

17 THE COURT: With respect to Count Eleven, conspiracy
18 to murder members of the Maria Lopez crew in aid of
19 racketeering as charged against Melvin Colon, how does the jury
20 find with respect to Melvin Colon, not guilty or guilty?

21 THE FOREPERSON: Guilty.

22 THE COURT: With respect to Count Twelve, assault and
23 attempted murder of Jing Bao Jiang in aid of racketeering as
24 charged against Melvin Colon, how does the jury find the
25 defendant, not guilty or guilty?

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1 THE FOREPERSON: Guilty.

2 THE COURT: Did the government prove beyond a
3 reasonable doubt that the defendant Melvin Colon assaulted Jing
4 Bao Jiang? How does the jury answer that question, no or yes?

5 THE FOREPERSON: Yes.

6 THE COURT: Did the government prove beyond a
7 reasonable doubt that the defendant Melvin Colon attempted to
8 murder Jing Bao Jiang? How does the jury answer that question,
9 no or yes?

10 THE FOREPERSON: No.

11 THE COURT: With respect to Count Thirteen, the
12 narcotics conspiracy as charged against Joshua Meregildo,
13 Melvin Colon, Earl Pierce, and Nolbert Miranda, how does the
14 jury find with respect to the defendant Joshua Meregildo, not
15 guilty or guilty?

16 THE FOREPERSON: Guilty.

17 THE COURT: How does the jury find with respect to the
18 defendant Melvin Colon, not guilty or guilty?

19 THE FOREPERSON: Guilty.

20 THE COURT: How does the jury find with respect to the
21 defendant Earl Pierce, not guilty or guilty?

22 THE FOREPERSON: Guilty.

23 THE COURT: How does the jury find with respect to the
24 defendant Nolbert Miranda, not guilty or guilty?

25 THE FOREPERSON: Guilty.

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1 THE COURT: With respect to the defendant Joshua
2 Meregildo, did he have either personal involvement with or was
3 it reasonably foreseeable to him that the narcotics conspiracy
4 involved marijuana? How does the jury answer that question, no
5 or yes?

6 THE FOREPERSON: Yes.

7 THE COURT: With respect to the defendant Melvin
8 Colon, does the jury find that he had either personal
9 involvement with or it was reasonably foreseeable to him that
10 the narcotics conspiracy involved marijuana? How does the jury
11 answer that question, no or yes?

12 THE FOREPERSON: Yes.

13 THE COURT: With respect to Earl Pierce, how does the
14 jury answer the question whether he had personal involvement
15 with or it was reasonably foreseeable to him that the narcotics
16 conspiracy involved marijuana, no or yes?

17 THE FOREPERSON: Yes.

18 THE COURT: With respect to the defendant Nolbert
19 Miranda, how does the jury answer the question as to whether he
20 had personal involvement with or it was reasonably foreseeable
21 to him that the narcotics conspiracy involved marijuana, no or
22 yes?

23 THE FOREPERSON: No.

24 THE COURT: With respect to question 13.2, did the
25 defendant Joshua Meregildo either have personal involvement

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1 with or was it reasonably foreseeable to him that the narcotics
2 conspiracy involved crack cocaine? How does the jury answer
3 that question, no or yes?

4 THE FOREPERSON: Yes.

5 THE COURT: With respect to the defendant Melvin
6 Colon, how does the jury find as to whether he had either
7 personal involvement with or it was reasonably foreseeable to
8 him that the narcotics conspiracy involved crack cocaine, no or
9 yes?

10 THE FOREPERSON: Yes.

11 THE COURT: With respect to the defendant Earl Pierce,
12 how does the jury answer the question as to whether he had
13 personal involvement with or it was reasonably foreseeable to
14 him that the narcotics conspiracy involved crack cocaine, no or
15 yes?

16 THE FOREPERSON: Yes.

17 THE COURT: With respect to the defendant Nolbert
18 Miranda, how does the jury answer the question as to whether he
19 had either personal involvement with or it was reasonably
20 foreseeable to him that the narcotics conspiracy involved crack
21 cocaine, no or yes?

22 THE FOREPERSON: Yes.

23 THE COURT: Now with respect to question 13.3, what
24 amount of crack cocaine did the defendants you are considering
25 either have personal involvement with or was it reasonably

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1 foreseeable to them was involved in the narcotics conspiracy?
2 With respect to the defendant Joshua Meregildo, what amount
3 does the jury find?

4 THE FOREPERSON: 280 grams or more.

5 THE COURT: With respect to the defendant Melvin
6 Colon, what amount does the jury find?

7 THE FOREPERSON: 280 grams or more.

8 THE COURT: With respect to the defendant Earl Pierce,
9 what amount does the jury find?

10 THE FOREPERSON: 280 grams or more.

11 THE COURT: With respect to the defendant Nolbert
12 Miranda, what amount does the jury find?

13 THE FOREPERSON: 28 grams or more but less than
14 280 grams.

15 THE COURT: And were those the only four boxes that
16 were checked in answer to question 13.3?

17 THE FOREPERSON: Yes.

18 THE COURT: Now with respect to Count Fourteen, the
19 murder of Jason Correa in connection with a drug crime as
20 charged against Earl Pierce, how does the jury find with
21 respect to that defendant, not guilty or guilty?

22 THE FOREPERSON: Not guilty.

23 THE COURT: With respect to the murder of Carrel
24 Ogarro in connection with a drug crime as charged against
25 Joshua Meregildo, how does the jury find the defendant

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1 Mr. Meregildo, not guilty or guilty?

2 THE FOREPERSON: Guilty.

3 THE COURT: With respect to Count Sixteen, the murder
4 of Delquan Alston in connection with a drug crime as charged
5 against Melvin Colon, how does the jury find the defendant
6 Melvin Colon, not guilty or guilty?

7 THE FOREPERSON: Guilty.

8 THE COURT: With respect to Count Seventeen, the
9 firearm possession or use during or in furtherance of the
10 murder of Jason Correa as charged against Earl Pierce, how does
11 the jury find with respect to the defendant Earl Pierce, not
12 guilty or guilty?

13 THE FOREPERSON: We didn't answer this --

14 THE COURT: Very well.

15 THE FOREPERSON: -- because of the instruction.

16 THE COURT: Very well. Count Eighteen, firearm
17 possession or use during or in furtherance of the murder of
18 Carrel Ogarro as charged against Joshua Meregildo. How does
19 the jury find with respect to the defendant Meregildo, not
20 guilty or guilty?

21 THE FOREPERSON: Guilty.

22 THE COURT: Count Nineteen, firearm possession or use
23 during or in furtherance of the murder of Delquan Alston as
24 charged against Melvin Colon, how does the jury find the
25 defendant Melvin Colon with respect to Count Nineteen, not

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1 guilty or guilty?

2 THE FOREPERSON: Guilty.

3 THE COURT: With respect to Count Twenty, firearm
4 possession or use during or in furtherance of the assault and
5 attempted murder of Tarean Joseph as charged against Joshua
6 Meregildo and Earl Pierce, how does the jury find with respect
7 to the defendant Joshua Meregildo on Count Twenty, not guilty
8 or guilty?

9 THE FOREPERSON: We didn't answer in regards to the
10 instruction.

11 THE COURT: And is the same also true with respect to
12 Mr. Pierce?

13 THE FOREPERSON: No.

14 THE COURT: All right. How does the jury find with
15 respect to Mr. Pierce and Count Twenty, not guilty or guilty?

16 THE FOREPERSON: Guilty.

17 THE COURT: Now did the government prove beyond a
18 reasonable doubt that Mr. Earl Pierce brandished a firearm?
19 How does the jury answer that question, no or yes?

20 THE FOREPERSON: Yes.

21 THE COURT: Did the government prove beyond a
22 reasonable doubt that a firearm was discharged? How does the
23 jury answer that question, with respect to Mr. Pierce?

24 THE FOREPERSON: Yes.

25 THE COURT: And did the jury leave the answers blank

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1 with respect to Mr. Meregildo?

2 THE FOREPERSON: Yes.

3 THE COURT: With respect to Count Twenty-one, firearms
4 possession or use during or in furtherance of the conspiracy to
5 murder members of the Maria Lopez crew as charged against
6 Melvin Colon, how does the jury find the defendant Melvin Colon
7 with respect to Count Twenty-one, not guilty or guilty?

8 THE FOREPERSON: Guilty.

9 THE COURT: Did the government prove beyond a
10 reasonable doubt that a firearm was brandished?

11 THE FOREPERSON: Yes.

12 THE COURT: How does the jury answer that, no or yes?

13 THE FOREPERSON: Yes. Sorry.

14 THE COURT: Did the government prove beyond a
15 reasonable doubt that a firearm was discharged? How does the
16 jury answer that question, no or yes?

17 THE FOREPERSON: Yes.

18 THE COURT: With respect to Count Twenty-two, firearm
19 possession or use during or in furtherance of a narcotics
20 conspiracy as charged against Joshua Meregildo, Melvin Colon,
21 Earl Pierce, and Nolbert Miranda, how does the jury find the
22 defendant Joshua Meregildo with respect to Count Twenty-two,
23 not guilty or guilty?

24 THE FOREPERSON: Guilty.

25 THE COURT: How does the jury find the defendant

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1 Melvin Colon with respect to Count Twenty-two, not guilty or
2 guilty?

3 THE FOREPERSON: Guilty.

4 THE COURT: How does the jury find the defendant Earl
5 Pierce with respect to Count Twenty-two, not guilty or guilty?

6 THE FOREPERSON: Guilty.

7 THE COURT: How does the jury find the defendant
8 Nolbert Miranda with respect to Count Twenty-two, not guilty or
9 guilty?

10 THE FOREPERSON: Not guilty.

11 THE COURT: With respect to Count Two, racketeering
12 conspiracy as charged against Joshua Meregildo, Melvin Colon,
13 Earl Pierce, and Nolbert Miranda, how does the jury find the
14 defendant Joshua Meregildo with respect to Count Two, not
15 guilty or guilty?

16 THE FOREPERSON: Guilty.

17 THE COURT: How does the jury find the defendant
18 Melvin Colon with respect to Count Two, not guilty or guilty?

19 THE FOREPERSON: Guilty.

20 THE COURT: How does the jury find the defendant Earl
21 Pierce with respect to Count Two, not guilty or guilty?

22 THE FOREPERSON: Guilty.

23 THE COURT: How does the jury find the defendant
24 Nolbert Miranda with respect to Count Two, not guilty or
25 guilty?

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1 THE FOREPERSON: Not guilty.

2 THE COURT: With respect to Count One, the
3 racketeering enterprise as charged against Joshua Meregildo,
4 Melvin Colon, and Earl Pierce, first, how does the jury answer
5 the question: Did you find Joshua Meregildo guilty of Count
6 Five, Count Six or both? How does the jury answer that
7 question, no or yes?

8 THE FOREPERSON: Yes.

9 THE COURT: With respect to Racketeering Act 4, how
10 does the jury answer the question: Did you find Joshua
11 Meregildo guilty of Count Nine, Count Ten, or both? How did
12 the jury answer that question, no or yes?

13 THE FOREPERSON: No.

14 THE COURT: With respect to Racketeering Act 6: Did
15 you find Joshua Meregildo guilty of Count Thirteen? How does
16 the jury answer that question, no or yes?

17 THE FOREPERSON: Yes.

18 THE COURT: With respect to the racketeering act as
19 charged against Melvin Colon, Racketeering Act 3, how does the
20 jury answer the question: Did you find Melvin Colon guilty of
21 Count Seven, Count Eight, or both?

22 THE FOREPERSON: Yes.

23 THE COURT: With respect to Racketeering Act 5, how
24 does the jury answer the question: Did you find Melvin Colon
25 guilty of Count Eleven, Count Twelve, or both? How does the

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1 jury answer that question, no or yes?

2 THE FOREPERSON: Yes.

3 THE COURT: With respect to Racketeering Act 6, how
4 does the jury answer the question: Did you find Melvin Colon
5 guilty of Count Thirteen? How does the jury answer that
6 question, no or yes?

7 THE FOREPERSON: Yes.

8 THE COURT: Turning to the racketeering acts as
9 charged against Earl Pierce, Racketeering Act 1: Did you find
10 Earl Pierce guilty of Count Three, Count Four, or both? How
11 does the jury answer that question, no or yes?

12 THE FOREPERSON: Yes.

13 THE COURT: With respect to Racketeering Act 4: Did
14 you find Earl Pierce guilty of Count Nine, Count Ten, or both?
15 How does the jury answer that question, no or yes?

16 THE FOREPERSON: Yes.

17 THE COURT: With respect to Racketeering Act 6: Did
18 you find Earl Pierce guilty of Count Thirteen? How does the
19 jury answer that question, no or yes?

20 THE FOREPERSON: Yes.

21 THE COURT: How do you find each defendant with
22 respect to Count One?

23 With respect to Joshua Meregildo, how does the jury
24 find, not guilty or guilty?

25 THE FOREPERSON: Guilty.

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1 THE COURT: With respect to Melvin Colon, how does the
2 jury find, not guilty or guilty?

3 THE FOREPERSON: Guilty.

4 THE COURT: With respect to Earl Pierce, how does the
5 jury find, not guilty or guilty?

6 THE FOREPERSON: Guilty.

7 THE COURT: And is the verdict sheet dated and signed
8 by you, Madam Foreperson?

9 THE FOREPERSON: Yes.

10 THE COURT: You may be seated.

11 Please retrieve the verdict sheet, mark it as Court
12 Exhibit 12, and show it to counsel.

13 (Pause)

14 THE COURT: Are there any further applications by
15 counsel before the court discharges the jury?

16 MR. BECKER: I respectfully request, your Honor, that
17 your Honor poll the jury.

18 MR. LEE: That's my request also, your Honor.

19 MR. DINNERSTEIN: I have the same request, your Honor.

20 THE COURT: All right. Members of the jury, listen
21 closely as I read your verdict as it stands recorded in this
22 court.

23 As to Count Three, conspiracy to murder members of the
24 Melrose organization in aid of racketeering as charged against
25 Earl Pierce, the jury finds the defendant Earl Pierce guilty.

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1 With respect to Count Four, the murder of Jason Correa
2 in aid of racketeering as charged against the defendant Earl
3 Pierce, the jury finds the defendant Earl Pierce not guilty.

4 With respect to Count Five, the conspiracy to murder
5 Carrel Ogarro in aid of racketeering as charged against the
6 defendant Joshua Meregildo, the jury finds the defendant Joshua
7 Meregildo guilty.

8 With respect to Count Six, the murder of Carrel Ogarro
9 in aid of racketeering as charged against Joshua Meregildo, the
10 jury finds the defendant Joshua Meregildo guilty.

11 With respect to Count Seven, the conspiracy to murder
12 Delquan Alston in aid of racketeering as charged against the
13 defendant Melvin Colon, the jury finds the defendant Melvin
14 Colon guilty.

15 With respect to Count Eight, the murder of Delquan
16 Alston in aid of racketeering as charged against Melvin Colon,
17 the jury finds the defendant Melvin Colon guilty.

18 With respect to Count Nine, the conspiracy to murder
19 members of the 321 organization in aid of racketeering as
20 charged against Joshua Meregildo, and Earl Pierce, the jury
21 finds the defendant Joshua Meregildo not guilty. The jury also
22 finds the defendant Earl Pierce not guilty.

23 With respect to Count Ten, assault and attempted
24 murder of Tarean Joseph in aid of racketeering as charged
25 against Joshua Meregildo and Earl Pierce, the jury finds the

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1 defendant Joshua Meregildo not guilty and the jury finds the
2 defendant Earl Pierce guilty.

3 With respect to whether the government proved beyond a
4 reasonable doubt that Earl Pierce assaulted Tarean Joseph, the
5 jury answers that question yes.

6 With respect to the question of whether the government
7 proved beyond a reasonable doubt that the defendant Earl Pierce
8 attempted to murder Tarean Joseph, the jury answers that
9 question yes.

10 With respect to Count Eleven, the conspiracy to murder
11 members of the Maria Lopez crew in aid of racketeering as
12 charged against Melvin Colon, the jury finds the defendant
13 Melvin Colon guilty.

14 With respect to Count Twelve, the assault and
15 attempted murder of Jing Bao Jiang in aid of racketeering as
16 charged against Melvin Colon, the jury finds the defendant
17 Melvin Colon guilty.

18 With respect to the question of whether the government
19 proved beyond a reasonable doubt that the defendant Melvin
20 Colon assaulted Jing Bao Jiang, the jury answers that question
21 yes.

22 With respect to the question of whether the government
23 proved beyond a reasonable doubt that the defendant Melvin
24 Colon attempted to murder Jing Bao Jiang, the jury answers that
25 question no.

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1 With respect to Count Thirteen, the narcotics
2 conspiracy as charged against Joshua Meregildo, Melvin Colon,
3 Earl Pierce, and Nolbert Miranda, the jury finds the defendant
4 Joshua Meregildo guilty, the jury finds the defendant Melvin
5 Colon guilty, the jury finds the defendant Earl Pierce guilty,
6 and the jury finds the defendant Nolbert Miranda guilty.

7 With respect to whether each of those defendants had a
8 personal involvement with or it was reasonably foreseeable to
9 him that the narcotics conspiracy involved marijuana, the jury
10 answered that question yes with respect to Mr. Meregildo, yes
11 with respect to Mr. Colon, yes with respect to Mr. Pierce, and
12 no with respect to Mr. Miranda.

13 As to the question of whether those defendants either
14 had a personal involvement with or it was reasonably
15 foreseeable to him that the narcotics conspiracy involved crack
16 cocaine, the jury answered that question yes for Mr. Meregildo,
17 yes for Mr. Colon, yes for Mr. Pierce, and yes for Mr. Miranda.

18 With respect to the amount that they either had a
19 personal involvement with or it was reasonably foreseeable to
20 them was involved in the narcotics conspiracy, the jury answers
21 280 grams or more with respect to Mr. Meregildo, Mr. Colon, and
22 Mr. Pierce; and 28 grams or more but less than 280 grams with
23 respect to Mr. Miranda.

24 As to Count Fourteen, the murder of Jason Correa in
25 connection with a drug crime as charged against Earl Pierce,

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1 the jury finds the defendant Earl Pierce not guilty.

2 With respect to the murder of Carrel Ogarro in
3 connection with a drug crime as charged against Joshua
4 Meregildo, the jury finds the defendant Joshua Meregildo
5 guilty.

6 With respect to Count Sixteen, the murder of Delquan
7 Alston in connection with a drug crime as charged against
8 Melvin Colon, the jury finds the defendant Melvin Colon guilty.

9 With respect to Count Seventeen, firearm possession or
10 use during or in furtherance of the murder of Jason Correa as
11 charged against Earl Pierce, the jury did not answer that
12 question.

13 With respect to Count Eighteen, firearm possession or
14 use during or in furtherance of the murder of Carrel Ogarro as
15 charged against Joshua Meregildo, the jury finds the defendant
16 Joshua Meregildo guilty.

17 With respect to Count Nineteen, firearm possession or
18 use during or in furtherance of the murder of Delquan Alston as
19 charged against Melvin Colon, the jury finds the defendant
20 Melvin Colon guilty.

21 With respect to Count Twenty, firearm possession or
22 use during or in furtherance of the assault and attempted
23 murder of Tarean Joseph as charged against Joshua Meregildo and
24 Earl Pierce, the jury did not answer that question with respect
25 to Joshua Meregildo and determined that the defendant Earl

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1 Pierce was guilty of Count Twenty.

2 With respect to the question of whether the government
3 proved beyond a reasonable doubt that a firearm was brandished,
4 the jury answered yes with respect to Mr. Pierce and left the
5 question blank with respect to Mr. Meregildo.

6 With respect to the question of whether the government
7 proved beyond a reasonable doubt that a firearm was discharged,
8 the jury answered yes with respect to Mr. Pierce and left that
9 question blank with respect to Mr. Meregildo.

10 As to Count Twenty-one, firearm possession or use
11 during or in furtherance of the conspiracy to murder members of
12 the Maria Lopez crew as charged against Melvin Colon, the jury
13 found the defendant Melvin Colon guilty.

14 With respect to the question of whether the government
15 proved beyond a reasonable doubt that a firearm was brandished,
16 the jury answered that question yes.

17 With respect to the question of whether the government
18 proved beyond a reasonable doubt that a firearm was discharged,
19 the jury answered that question yes.

20 As to Count Twenty-two, firearm possession or use
21 during or in furtherance of a narcotics conspiracy as charged
22 against Joshua Meregildo, Melvin Colon, Earl Pierce, and
23 Nolbert Miranda, the jury found the defendant Joshua Meregildo
24 guilty, the jury found the defendant Melvin Colon guilty, the
25 jury found the defendant Earl Pierce guilty, the jury found the

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1 defendant Nolbert Miranda not guilty.

2 With respect to Count Two, racketeering conspiracy as
3 charged against Joshua Meregildo, Melvin Colon, Earl Pierce,
4 and Nolbert Miranda, the jury found the defendant Joshua
5 Meregildo guilty, the jury found the defendant Melvin Colon
6 guilty, the jury found the defendant Earl Pierce guilty, the
7 jury found the defendant Nolbert Miranda not guilty.

8 As to racketeering acts against Joshua Meregildo, the
9 jury answered yes to the question whether Joshua Meregildo was
10 guilty of Count Five, Count Six, or both; it answered no to the
11 question of whether Joshua Meregildo was guilty of Count Nine,
12 Count Ten, or both; and it answered yes as to whether Joshua
13 Meregildo was guilty of Count Thirteen.

14 As to the racketeering acts charged against Melvin
15 Colon, the jury answered yes to the question of whether Melvin
16 Colon was guilty of Count Seven, Count Eight, or both; it
17 answered yes as to whether the defendant Melvin Colon was
18 guilty of Count Eleven, Count Twelve, or both; and it answered
19 yes as to whether the defendant Melvin Colon was guilty of
20 Count Thirteen.

21 As to the racketeering acts charged against Earl
22 Pierce, the jury answered yes with respect to the question of
23 whether Earl Pierce was guilty of Count Three, Count Four, or
24 both; it answered yes with respect to the question of whether
25 Earl Pierce was guilty of Count Nine, Count Ten, or both; and

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1 it answered yes to the question of whether Earl Pierce was
2 guilty of Count Thirteen.

3 Finally, with respect to Count One, the jury found the
4 defendant Joshua Meregildo guilty, it found the defendant
5 Melvin Colon guilty, and it found the defendant Earl Pierce
6 guilty.

7 Juror number 1, is that your verdict?

8 JUROR NUMBER 1: Yes.

9 THE COURT: Juror number 2, is that your verdict?

10 JUROR NUMBER 2: Yes.

11 THE COURT: Juror number 3, is that your verdict?

12 JUROR NUMBER 3: Yes.

13 THE COURT: Juror number 4, is that your verdict?

14 JUROR NUMBER 4: Yes.

15 THE COURT: Juror number 5, is that your verdict?

16 JUROR NUMBER 5: Yes.

17 THE COURT: Juror number 6, is that your verdict?

18 JUROR NUMBER 6: Yes.

19 THE COURT: Juror number 7, is that your verdict?

20 JUROR NUMBER 7: Yes.

21 THE COURT: Juror number 8, is that your verdict?

22 JUROR NUMBER 8: Yes.

23 THE COURT: Juror number 9, is that your verdict?

24 JUROR NUMBER 9: Yes.

25 THE COURT: Juror number 10, is that your verdict?

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JUROR NUMBER 10: Yes.

THE COURT: Juror number 11, is that your verdict?

JUROR NUMBER 11: Yes.

THE COURT: Juror number 12, is that your verdict?

JUROR NUMBER 12: Yes.

THE COURT: All right. The jury has been polled. The verdict is unanimous.

Are there any further applications before the court discharges the jury?

Anything from the government?

MS. HELLER: No, your Honor.

THE COURT: Anything from the defendant Meregildo?

MR. LEE: No, your Honor.

THE COURT: Anything from the defendant Colon?

MR. DINNERSTEIN: No, your Honor.

THE COURT: Anything from the defendant Pierce?

MR. MIEDEL: No, your Honor.

THE COURT: Anything from the defendant Miranda?

MR. BECKER: No, your Honor.

THE COURT: Members of the jury, on behalf of the parties and the court, I want to thank you for your service in this case. Service as a juror in a criminal case is always a difficult challenge, and this case took longer than any of us anticipated. I appreciate your diligence, your attention to detail, your care throughout these proceedings in hearing this

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1 case. There's only one form of service that your country can
2 ask of you that's higher than jury service, and in the troubled
3 world that we live in, I hope that none of you are called to
4 that service.

5 I'm now going to relieve you of all the prohibitions
6 that I put on you throughout the course of this trial. You may
7 discuss the case if you wish, or not. That's entirely up to
8 you. But I ask only that you respect the sanctity of jury
9 deliberations and that if you do speak about the case, you
10 speak only on your own behalf about what you thought.

11 So I'm going to discharge you at this time. For those
12 of you who can stay a few minutes, I will come into the jury
13 room and chat with you for a few minutes before you head home.
14 For those who wish to leave, I thank you for your service.

15 Please recess the jury.

16 THE CLERK: Come to order. Jury exiting.

17 (Jury discharged)

18 THE COURT: Are there any further applications at this
19 time?

20 MR. MIEDEL: Your Honor, I would like the opportunity
21 to file any posttrial motions outside of the statutory period
22 sometime perhaps with a filing date in January or so.

23 MR. BECKER: Your Honor? If I may, I was going to ask
24 to speak to Mr. Miedel, but I think I can just speak on the
25 record. I would also ask for the opportunity to file

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1 postverdict motions, and in view of the length of the record
2 and my calendar, a variety of items, I would ask for a
3 lengthier opportunity, sometime in February, if it pleases the
4 court, at least 60 days from today.

5 In addition, your Honor, I would respectfully ask that
6 the letter that I wrote to the court this morning regarding the
7 jury instruction be docketed.

8 THE COURT: Oh, it will be docketed as with every
9 letter that's been submitted by any party throughout the course
10 of this case. They will all be docketed as part of the record.
11 I consider them part of the record in this case.

12 MR. BECKER: Thank you, your Honor.

13 And then finally, when the court speaks to the jury, I
14 know speaking for myself, and I'm sure for other attorneys in
15 the well, I always appreciate the opportunity to speak with
16 jurors if they're willing to, and I would be grateful if the
17 court could let the jurors know that one or more of the lawyers
18 may wish to speak with them. Of course it's entirely up to
19 them.

20 THE COURT: All right.

21 MR. DINNERSTEIN: Your Honor, I also would join in
22 terms of the posttrial motions and would ask also for a lengthy
23 date.

24 MR. LEE: Yes. Meregildo will also be filing
25 postverdict motions and I do ask for a time period beyond the

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1 statutory period provided for, something in the area of what
2 Mr. Becker is asking for.

3 THE COURT: Look, I'm always leery of fixing a date
4 that is beyond the statutory date for fear that the Second
5 Circuit will take a different view. I'm glad to fix a date for
6 you in late January, early February to file motions, but I do
7 so only with the specific reservation to all of you that if the
8 federal rules require you to file a notice of motion within the
9 prescribed statutory time limit, then you should do that, and
10 if the briefing comes in later, I'm obviously going to receive
11 it, but I'm not going to fix a date and say it's all fine with
12 me and then find out that it really wasn't fine with the Court
13 of Appeals.

14 MR. MIEDEL: Your Honor, I think the law is fairly
15 clear that as long as the court fixes a date within the seven-
16 or whatever-day period it is that's outside of the period, then
17 that absolves the parties of having to file within that period
18 of time.

19 THE COURT: All right. It's been a while since I've
20 looked at it.

21 I'll fix February 8th as a date to file motions.

22 MR. MIEDEL: Thank you.

23 MR. BECKER: Thank you, your Honor.

24 THE COURT: Also, I'm going to fix a sentencing date.

25 When can the government get a response to the motions?

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1 MS. HELLER: 30 days, your Honor.

2 THE COURT: All right. March 8th. Any reply by
3 March 20th.

4 And I'll set this matter down for April 19 at 2 p.m.
5 for sentencing in this case.

6 Anything further?

7 MR. BECKER: Is your Honor going to wait to receive
8 the parties' briefs before deciding whether oral argument is
9 appropriate?

10 THE COURT: Yes.

11 MR. BECKER: Okay. Thank you.

12 MS. HELLER: Nothing further from the government, your
13 Honor.

14 THE COURT: Anything further from the defendants?

15 MR. MIEDEL: Your Honor, I would just ask that at
16 least Mr. Pierce -- and I assume the same is probably true for
17 the other counsel -- that the marshals keep Mr. Pierce
18 downstairs for a while before transporting him back to Brooklyn
19 because I would like an opportunity to speak with him,
20 obviously.

21 THE COURT: Yes. I think that if that can be
22 accommodated?

23 THE MARSHAL: Not a problem, your Honor.

24 THE COURT: Very well. Thank you so much.

25 Any other requests or applications from the defendants

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1 at this time?

2 All right. Then this matter is concluded. The
3 defendants may be escorted from the courtroom.

4 (Defendants excused)

5 THE COURT: I think everybody needs to get some rest.

6 MR. BECKER: Thank you, your Honor.

7 THE CLERK: All rise.

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